HON'BLE THE CHIEF JUSTICE SHRI G.S. SINGHVI
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No.542 of 2007

Between:

Darsi Sudhakara Rao

... Appellant

And

The Commissioner and Inspector General of Registration and Stamps, Government of Andhra Pradesh, N.T.R. Complex, Golconda X Roads, Musheerabad, Hyderabad and nine others

... Respondents

::JUDGMENT::

Counsel for the appellant : Shri V. Rajagopal Reddy

July 2, 2007

Per G.S. Singhvi, CJ

This appeal is directed against order dated 20-3-2007 passed by the learned Single Judge in Writ Petition No. 5569 of 2007, whereby he declined to entertain the appellant's prayer for quashing communication dated 26-10-2006 issued by Commissioner and Inspector General of Registration and Stamps in the matter of enquiry pertaining to the alleged mismanagement of the affairs of the Vasavi Academy of Education (respondent No.2).

A perusal of the record shows that Writ Petition No.25832 of 2006 filed by the appellant for grant of a declaration that the governing body of Vasavi Academy of Education, Hyderabad is functioning contrary to Section 14 of the Andhra Pradesh Societies Registration

Act, 2001 (for short, 'the Act') and is guilty of violations of the memorandum of association and articles of association was dismissed by the learned Single Judge on the ground of availability of remedy under Section 23 of the Act. Writ Appeal No. 66 of 2007 filed against that order of the learned Single Judge was dismissed by the Division Bench as withdrawn with liberty to avail appropriate legal remedy. However, instead of availing the remedy available to him under Section 23 of the Act, the appellant filed second writ petition for grant of relief similar to the one prayed for in Writ Petition No.25832 of 2006. The additional prayer made in the second petition was for quashing communication dated 26-10-2006. The learned Single Judge non-suited the appellant on the ground of availability of statutory remedy under Section 23 of the Act.

We have heard learned counsel for the appellant. We entirely agree with the learned Single Judge that the remedy available to the appellant under Section 23 of the Act is an effective alternative remedy and add that there is no extraordinary reason for making a departure from the settled law that the High Court will not entertain a writ petition under Article 226 of the Constitution if an effective alternative remedy is available to the petitioner.

We are further of the view that the writ petition should have been dismissed by the learned Single Judge as barred by the principle of constructive res judicata by applying the principles underlying Order II Rule 2 of the Code of Civil Procedure because while dismissing Writ Petition No. 25832 of 2006, this Court did not give liberty to the petitioner to file fresh petition on the same cause. In this connection, we may usefully refer to the judgment of the Supreme Court in **Sarguja Transport Service v. State Transport Appellate Tribunal, Gwalior**[1].

In the result, the appeal is dismissed leaving the appellant free to avail remedy under Section 23 of the Act.

As a sequel to dismissal of the appeal, WAMP Nos.1049 and

1050 of 2007 filed by the appellant for interim relief are also dismissed.

G.S. SINGHVI, CJ

July 2, 2007

C.V. NAGARJUNA REDDY, J

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[1] AIR 1987 SC 88